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C O N F I D E N T I A L SECTION 01 OF 04 NAIROBI 000239

SIPDIS

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FOR S, D, P, G, R, DS, DRL, AND AF/AS FRAZER FROM THE
AMBASSADOR

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TAGS: [PREL](#) [PGOV](#) [KDEM](#) [KE](#)

SUBJECT: KENYA,S ELECTORAL CRISIS -- PUSHING KIBAKI-ODINGA
MEETING AND NEXT STEPS

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Classified By: Ambassador Ranneberger, reasons 1.4 (b,d)

[11.](#) (C) Summary. In the lead-up to Kofi Annan,s expected arrival January 22, we have continued to press for President Kibaki and Raila Odinga to use that opportunity for a face-to-face meeting and to launch a meaningful political dialogue. Achieving that would go a long way towards calming tensions and ending violence. Both have reaffirmed their commitment to meet. Both said they agreed in general terms with the non-paper I presented on the way forward (ref A), but each said they would want a number of changes. This message reports on my meetings with Raila Odinga, Vice President Musyoka, and President Kibaki. End summary.

Meeting with Odinga

[12.](#) (C) I met with Odinga on January 18 to stress the importance the U.S. attaches to resolution of the current crisis through a political solution, and made clear we expected Odinga to meet with Kibaki under the aegis of Kofi Annan. Odinga told me: "I am ready to meet one-on-one with President Kibaki, without pre-conditions, in the presence of Kofi Annan." Odinga also said that the non-paper on the way forward, which I reviewed with him, could, with some small changes, serve as the basis for discussions between the two sides following a Kibaki-Odinga meeting. (One of Odinga,s aides, however, subsequently came back to me with extensive proposed changes.)

Vice President Musyoka

¶3. (C) On January 20 I met with Vice President Musyoka. During a one and a half hour discussion, I made clear to Musyoka that we expect him to use his leverage within the government to support a political solution. Kibaki and his Party of National Unity, I pointed out, need Musyoka and his Orange Democratic Movement) Kenya party in order to have any semblance of legitimacy, since his votes plus those cast for Kibaki clearly constitute a majority of votes cast (and in order to have at least a near-majority in Parliament). I reviewed U.S. policy at length and told Musyoka that he will destroy his political future if he participates in a government that is not broad-based and seen as reflecting the will of the Kenyan people. Therefore, it is in his interest to work for a political solution.

¶4. (C) Musyoka repeatedly emphasized the importance he attaches to his friendship with the U.S. and his commitment to work with us to achieve a political solution. Musyoka said that Kibaki is willing to meet one-on-one with Odinga in the presence of Kofi Annan. Musyoka tried to take credit for mobilizing government efforts to promote dialogue. He claimed that he and Uhuru Kenyatta went to Kibaki, telling Kibaki that he is isolated and that the government needed to develop a strategy to demonstrate commitment to dialogue. That, he said, is why a committee for dialogue and reconciliation headed by him was announced (see below). He recognized that the presence on the committee of Minister of Justice Martha Karua, considered one of the staunchest hardliners against compromise with Odinga, is a serious

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problem. (He did not mention that his own leadership of the committee is a huge issue, given the personal animosity between him and Odinga as a result of their split in the run-up to the elections.) Musyoka confided, as is generally believed, that as a quid pro quo for his accepting the vice presidency position, Kibaki and Uhuru Kenyatta agreed to support Musyoka as candidate for the presidency in 2012. Perhaps reflecting the reality that he does not want Odinga brought into the government, Musyoka argued that Odinga should remain outside of government as leader of the opposition in Parliament.

¶5. (C) Musyoka did, however, recognize that there must be a comprehensive political solution. He focused particularly on the need for electoral and constitutional reform. I reviewed the non-paper with him. With minor proposed changes, he said he thought it would be acceptable to Kibaki.

¶6. (C) Musyoka also said he understands the need to lift the ban on demonstrations, indicating this might happen within a week. He also said that, in response to my letter to the Minister of Security, allegations of the use of unjustified deadly force by the police are being investigated. He urged that efforts be made to dissuade the opposition from holding demonstrations in the coming days that could lead to more violence.

Kibaki

¶7. (C) During a one-hour meeting with President Kibaki on January 21, I emphasized the U.S. position on the urgent need to launch a process of dialogue leading to a political settlement of the election crisis. Kibaki reaffirmed that he is ready to meet with Odinga under the aegis of Kofi Annan. Noting that it was Odinga who backed out of the meeting which Kibaki had agreed to during President Kufuor's visit, Kibaki expressed skepticism that Odinga would actually meet. Kibaki complained that "Odinga keeps putting conditions." I told the President that Odinga had reaffirmed to me his

willingness to meet without preconditions, and Kibaki welcomed this. The President said he talked with Annan on January 21 and will see him early on January 23.

¶ 8. (C) As do we, Kibaki sees a face-to-face meeting with Odinga as the starting point for launching a dialogue between persons they designate. However, the President made clear that he has certain bottom lines and that he is deeply skeptical that Odinga will ever agree to anything "reasonable." Kibaki said "I cannot have Odinga in the government. It is impossible to work with him. Some of his people could come into government, but not him, and not Ruto." I pushed back, but the President was adamant. "We effectively already have power-sharing, with the ODM (Odinga's party) controlling Parliament," Kibaki said.

¶ 9. (C) He then launched into a detailed review of his concerns regarding ongoing violence. He did not blame Odinga for this, saying it is clear there are forces beyond his control. He said that William Ruto, one of the members of the ODM's "pentagon" leadership, is largely responsible for continuing violence in Rift Valley. The need to end such violence must be a major issue in any talks, Kibaki insisted. I agreed and made clear that we have pressed Odinga and the other pentagon members on the need to send clear signals against violence. When I argued the need to allow peaceful demonstrations by the opposition, Kibaki said that this could not be done while violence continues in Rift Valley (with incidents as recently as last night, he said). "Odinga must help restore normalcy," Kibaki said. Kibaki agreed that a meeting between him and Odinga, and the immediate launching of a process of dialogue, are key to ending violence.

¶ 10. (C) Kibaki carefully reviewed the way forward non-paper that I presented to him. He said that the paper was in general terms fine, but that certain changes needed to be made. He specifically said that it was right to focus on the

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importance of constitutional and electoral reform. However, he said that creating the position of an executive prime minister was not something that should be considered. When I pushed back, he said, "I know this is what Odinga wants, but it is not appropriate for Kenya." Kibaki agreed on the point calling for an independent investigation of electoral irregularities, but said this should be established pursuant to the filing of a legal petition with the courts regarding electoral irregularities.

¶ 11. (C) I complimented the President for his dignified manner while hearing some very tough attacks on him during the parliamentary session to elect the new Speaker. The President said it had not been easy to sit through such comments, but he was proud that his team handled the ensuing debate so skillfully, resulting in the ODM Speaker actually ruling in favor of the position taken by the President's Party of National Unity. He said he will work with the Speaker to convene the Parliament at the beginning of March.

Next Steps

¶ 12. (C) Annan will arrive on January 22 and will work to bring about a Kibaki-Odinga meeting. I will share the non-paper on the way forward with him in the event he thinks it could be useful as a framework for dialogue between the two sides following a Kibaki-Odinga meeting, and to give Annan a sense of our thinking.

¶ 13. (C) Interestingly, when I met with former presidents Chissano and Mkapa on the 18th, they suggested that the two sides should form delegations prior to the arrival of the eminent persons. When I met with Odinga on the 18th he also floated the idea of the two sides forming delegations for "talks about talks" to set the stage for a Kibaki-Odinga

meeting. I emphasized to Odinga that having such preparatory talks was a recipe for failure. As he well knows, I said, a face-to-face meeting is imperative to start the process of dialogue, so the two can then give instructions to their respective teams. I expressed my concerns about this approach with Chissano and Mkapa as well.

¶14. (C) On the 18th, the government announced formation of a political committee to spearhead national political dialogue and national reconciliation. The members include: Vice President Musyoka, Minister of Security Saitoti, Foreign Minister Wetangula, Minister of Finance Amost Kimunya, Minister for Local Government Uhuru Kenyatta, Minister of Justice Karua, Attorney General Wako, and Member of Parliament Mutula Kilonzo (who is close to Musyoka and is the lawyer he designated for the overnight review of the vote tally carried out at the KICC on December 29). Odinga considers Musyoka a traitor for having deserted the ODM in the run-up to the elections. Saitoti, Kimunya, and Karua are considered extremely hardline against any real political compromise.

Comment

¶15. (C) It appears, based on these discussions, that there is a reasonable chance that Annan will succeed in getting Kibaki and Odinga together. Such a meeting will probably result in agreement to appoint representatives of the two sides to follow up, thus launching a dialogue. However, from what we know of Odinga's position and from Kibaki's comments above, it is clear that the two sides are very far apart and that achieving a meaningful compromise political settlement will be very difficult. Although the two sides could eventually coalesce around agreement to constitutional and legal reform, achieving agreement on investigation of electoral irregularities, establishment of a truth and reconciliation commission, joint efforts to end violence, and power-sharing will be a huge hurdle) if Odinga wants to come into the government (and have 50 percent of all positions, as he has

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stated before).
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